

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-7299

ORIGINAL

In The
United States Court of Appeals
For The Second Circuit

ISAAC JAROSLAWICZ and JOSEPH JAROSLAWICZ,

Plaintiffs-Appellants,

VS.

ALBERT A. SEEDMAN,

Defendant-Appellee.

B
P/S

JOINT APPENDIX

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(8526)

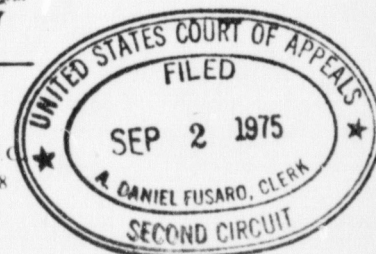
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JA1

JAROSLAWICZ vs. SEEDMAN

[illegible]

AMENDED COMPLAINT (Filed October
UNITED STATES DISTRICT COURT 23, 1974)
EASTERN DISTRICT OF NEW YORK

JA2

-----X

ISAAC JAROSLAWICZ and
JOSEPH JAROSLAWICZ,

AMENDED COMPLAINT

Plaintiffs,

- against -

74 C. 1509
Bruchhausen, J.

ALBERT A. SEEDMAN,

Defendant.

Plaintiffs Demand a
Trial By Jury.

-----X

Plaintiffs complaining of the defendant by their
attorneys, JULIEN & SCHLESINGER, P.C., allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1343 and the rules of pendent jurisdiction.
2. Venue is properly placed in the Eastern District of New York since the plaintiffs reside in the Eastern District of New York, the defendant resides in the Eastern District of New York and many of the events complained of occurred in the Eastern District of New York.

AS AND FOR A FIRST CLAIM FOR RELIEF ON
BEHALF OF THE PLAINTIFF, ISAAC JAROSLAWICZ:

3. That at all times hereinafter mentioned, the plaintiff, Isaac Jaroslawicz, was a citizen of the United States and a resident of the State of New York.
4. Upon information and belief, at all times hereinafter mentioned, the defendant, Albert A. Seedman, was Chief of Detectives of the New York City Police Department.

5. That on or about October 21, 1971 and on dates subsequent thereto, the defendant Seedman acting under the color of State law caused Isaac Jaroslawicz to be deprived of the rights, privileges and immunities secured to him by the Constitution of the United States and in violation of 42 U.S.C. 1983.

6. That on or about October 21, 1971, and on days subsequent thereto, the defendant Seedman in bad faith and without a reasonable belief that the plaintiff, Isaac Jaroslawicz, had committed any crime or violated any laws of the State of New York or of the United States caused, directed and/or ordered the plaintiff to be arrested and prosecuted for the alleged purchase of a rifle under a false name which rifle had been used to fire certain shots at the Russian Mission and for various other alleged crimes.

7. That the defendant Seedman caused the plaintiff, Isaac Jaroslawicz to be arrested knowing that the plaintiff, Isaac Jaroslawicz had not committed any crime; that the defendant Seedman caused the plaintiff, Isaac Jaroslawicz to be held in custody for over ten hours without charging him with a crime; that the defendant Seedman denied the plaintiff, Isaac Jaroslawicz the right to communicate with counsel for several hours subsequent to his arrest despite the request of the plaintiff, Isaac Jaroslawicz, that he be permitted to do so; that the defendant Seedman and persons acting under his direction and control, continued to interrogate the plaintiff, Isaac Jaroslawicz

JA4

without counsel present, despite the plaintiff, Isaac Jaroslawicz' request that he be permitted to communicate with counsel; that the defendant Seedman and persons acting under his direction and control refused to reveal to the plaintiff, Isaac Jaroslawicz for several hours, the reasons why he had been taken into custody or what crime he was being charged with; that the defendant Seedman and persons acting under his direction and control caused the plaintiff, Isaac Jaroslawicz to be placed in a line-up which was geared towards having the plaintiff, Isaac Jaroslawicz selected as the guilty party; that the other persons in the line-up were of a different age, build and demeanor than the plaintiff, Isaac Jaroslawicz; and the line-up was in other ways directed at having Isaac Jaroslawicz chosen out of the line-up; that the defendant Seedman sought to have agents of the Federal Government charge the plaintiff, Isaac Jaroslawicz with a crime and insisted that they do so although the Federal agents were reluctant to charge the plaintiff, Isaac Jaroslawicz with any crime; and that the defendant Seedman acted in other ways to wrongfully deprive the plaintiff, Isaac Jaroslawicz of the rights, privileges and immunities secured to him by the Constitution of the United States and in violation of 42 U.S.C. 1983.

7. That at the time the defendant Seedman acted as aforesaid, the defendant knew or had reason to believe that the plaintiff had not committed the act he had been arrested for. The defendant did not have a good faith belief that the plaintiff had committed any crimes, nor did the defendant act in good faith or in a reasonable manner when he directed and/or ordered the arrest of the plaintiff, and when he induced Federal Agents to charge the plaintiff, Isaac Jaroslawicz with the crime.

8. That the aforesaid acts of the defendant in causing and directing the arrest and prosecution of the plaintiff were not made in good faith and with the reasonable belief that the plaintiff had violated the laws of the United States or of the State of New York but were rather made for an ulterior motive to serve the purposes of the defendant and other persons acting in concert with him, so as to enable them to claim that they had solved a crime by using the plaintiff, Isaac Jaroslawicz as a scapegoat.

9. That the plaintiff, Isaac Jaroslawicz was a member of the Jewish Defense League, and it was because of his membership in the Jewish Defense League that the plaintiff, Isaac Jaroslawicz was chosen to be arrested for a crime which the defendant knew he had not committed.

10. The acts of the defendant as aforesaid violated the civil and constitutional rights of the plaintiff herein.

11. That the aforesaid act of the defendant caused the plaintiff to be arrested and to be prosecuted for an alleged crime which the defendant knew or had reason to know that the plaintiff had not committed.

12. That by reason of the foregoing, the plaintiff was arrested and prosecuted. That the aforesaid arrest was made with great attendant publicity and exposure in the press and news media.

13. By reason of the foregoing, the plaintiff suffered great humiliation, embarrassment and mental anguish and was caused to expend sums for bail and attorneys' fees and for various

other expenditures so as to defend himself against the charges which without any reasonable basis had been falsely brought against him.

14. That the plaintiff received threatening letters and hate mail and suffered physical and emotional distress, and that the aforesaid acts on the part of the defendant caused the plaintiff to suffer permanent and harmful effects to his physical and mental health, to his reputation and to his entire future and prospects.

15. That the plaintiff, Isaac Jaroslawicz was born on August 30, 1953 and was 18 years of age when the occurrences complained of transpired. That the plaintiffs' action is timely brought since the Statute of Limitations is tolled during the plaintiff's infancy. The plaintiff did not become 21 years of age until August 30, 1974.

AS AND FOR A SECOND CLAIM FOR RELIEF ON
BEHALF OF THE PLAINTIFF, ISAAC JAROSLAWICZ:

16. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "15" inclusive, with the same force and effect as though more fully set forth herein.

17. That the actions of the defendant Seedman as aforesaid, were in violation of the Equal Protection Clause of the Constitution of the United States and were directed at the members of the Jewish Defense League and at the plaintiff because he was a member of the Jewish Defense League.

18. That the defendant Seedman in acting as aforesaid, conspired to do the acts and did commit the overt acts as set out above. The names of various other persons with whom the defendant Seedman conspired are presently unknown to the plaintiff.

19. That the defendant's conspiracy to deprive the plaintiff of his civil and constitutional rights because he was a member of the Jewish Defense League, was in violation of 42 U.S.C. 1985.

AS AND FOR A THIRD CLAIM FOR RELIEF ON
BEHALF OF THE PLAINTIFF, ISAAC JAROSLAWICZ:

20. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "19" inclusive, with the same force and effect as though more fully set forth herein.

21. That the defendant Seedman, in his position as Chief of Detectives of the New York City Police Department, at the times relevant hereto, had knowledge that the wrongs which were done to the plaintiff were about to be committed, and he had the power to prevent or aid in preventing those wrongs from being committed.

22. That the defendant Seedman neglected and/or refused to prevent those wrongs from being committed against the plaintiff and is, therefore, liable to the plaintiff pursuant to 42 U.S.C. 1986.

AS AND FOR A FOURTH CLAIM FOR RELIEF ON
BEHALF OF THE PLAINTIFF, JOSEPH JAROSLAWICZ:

23. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "22" inclusive, with the same force and effect as though more fully set forth herein.

24. That at all times relevant hereto, the plaintiff, Joseph Jaroslawicz, was the father and natural guardian of the plaintiff, Isaac Jaroslawicz, and by reason of the defendant's acts as aforesaid was caused to expend great sums to defend his son against charges falsely and wrongly brought against him.

25. That due to the aforesaid acts of the defendant, this plaintiff received numerous threatening phone calls and hate mail causing him great mental anguish, humiliation, embarrassment and suffering.

AS AND FOR A FIFTH CLAIM FOR RELIEF ON
BEHALF OF THE PLAINTIFFS.

26. Plaintiffs repeat, reiterate and reallege each and every allegations contained in paragraphs numbered "1" through "25" inclusive, with the same force and effect as though more fully set forth herein.

27. That the acts of the defendant as heretofore alleged were done recklessly, maliciously and willfully, with no reasonable basis therefor, for an ulterior purpose and caused great harm to the plaintiffs herein. By reason of the foregoing, the plaintiffs are entitled to recover punitive damages.

JA9

WHEREFORE, the plaintiff, Isaac Jaroslawicz, demands judgment against the defendant, Albert A. Seedman, in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000 .) in actual and punitive damages; and the plaintiff Joseph Jaroslawicz, demands judgment against the defendant, Albert A. Seedman, in the amount of Five Hundred Thousand Dollars (\$500,000.00) in actual and punitive damages; and for the costs and disbursements of this action.

JULIEN & SCHLESINGER, P.C.
Attorneys for Plaintiffs
Office and P.O. Address
2 Lafayette Street
New York, N.Y.
(212) 962-8020

BY: Stewart B. Schlesinger

A Member of the Firm

DEFENDANT'S NOTICE OF MOTION TO DISMISS COMPLAINT OR FOR
SUMMARY JUDGMENT DATED JANUARY 31, 1975

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ

Plaintiffs

-against-

ALBERT A. SEEDMAN

Defendant

----- x

NOTICE OF MOTION
74C 1509

Judge Bruchhausen

PLEASE TAKE NOTICE that upon the complaint,
the annexed affidavits, exhibits, and memorandum of law,
the defendant Albert A. Seedman will move this Court on
the 14th day of MARCH, 1975, for an order pursuant to
Rule 12 (b)(6) of the Federal Rules of Civil Procedure
dismissing the complaint herein, or, in the alternative,
for summary judgment pursuant to Rule 56 of the Federal
Rules of Civil Procedure, and for such other and further
relief that the Court may deem just and proper.

Dated: New York, New York

January 31, 1975

Yours, etc.

TO:
Julien & Schlesinger, P.C.
Attorneys for Plaintiffs
2 Lafayette Street
New York, N. Y. 10007

W. Bennett Richland
Corporation Counsel
Attorney for Defendant
Municipal Building
New York, N. Y. 10007

By /s/ Thomas Burchill
THOMAS F. BURCHILL

JAIL

AFFIDAVIT OF THOMAS F. BURCHILL IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS (Dated January 31, 1975)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - x

ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ

AFFIDAVIT

Plaintiffs

74 C1509

-against-

ALBERT A. SEEDMAN

Defendant

- - - - - x

THOMAS F. BURCHILL, being duly sworn, deposes
and says:

That he is an attorney in the office of the
Corporation Counsel of the City of New York and as such is
fully familiar with the facts and circumstances of this
action.

That this is an action brought pursuant to
42 U.S.C. §§1983, 1985 and 1986 arising out of the arrest
of the plaintiff Isaac Jaroslawicz in October of 1971.
Plaintiff Joseph Jaroslawicz seeks damages of a derivative
nature.

That the factual circumstances eventuating in

JAI2

the arrest of the plaintiff by agents of the United States Treasury Department are set forth in the annexed affidavit of the defendant Albert A. Seedman.

That the events subsequent to those detailed by the defendant can be briefly summarized as follows: Isaac Jaroslawicz was arraigned and released on bail on October 22nd, 1971 in the United States District Court for the Eastern District of New York (a facsimile of the Magistrate's report is annexed hereto, Exhibit "A"); on the 9th day of November, 1971, Jaroslawicz was indicted by a Grand Jury sitting in the Eastern District of New York (a facsimile of the indictment is annexed hereto, Exhibit "B"); in February of 1972 the indictment was dismissed on motion of the United States Attorney and another individual, also a member of the Jewish Defense League, was arrested for the crimes charged.

That the instant complaint is wholly devoid of particularity as to any overt acts allegedly committed by the defendant; it is couched in vague and conclusory terms only. Therefore, it does not state a claim upon which relief may be granted.

That beyond the defects in pleading, the claim

JA13

itself lacks merit. The actions of the defendant were fully consistent with his duties as a law enforcement official investigating a serious crime. Moreover, no rights of the plaintiff were abridged in any manner. That subsequent events revealed that Jaroslawicz's involvement with the investigation was occasioned by an instance of mistaken identity is clearly not an indication of bad faith on defendant's part but rather constitutes yet another example of the fallibility of human reason. In recognition of this human condition, the Constitution does not require that the actions of police officials be premised upon certainties; reasonable, or probable, cause is the touchstone.

That the plaintiff was not in fact caused to be arrested by the defendant, that whatever detention the plaintiff may have been subject to was thoroughly justified, and that the instant action is barred by the Statute of Limitations; these are reserved for exposition in the accompanying memorandum of law.

That it is respectfully urged that the complaint be dismissed, or, in the alternative, that Summary Judgment be entered in favor of the defendant.

Sworn to before me this

31st day of January, 1975

/s/ Thomas Burchill
THOMAS F. BURCHILL

ROBERT A. STANLEY
Notary Public, State of New York
No. 31-4518556
Qualified in New York County
Commission Expires March 30, 1976

JA14

**AFFIDAVIT OF ALBERT A. SEEDMAN IN SUPPORT OF DEFENDANT'S MOTION
TO DISMISS (Filed February 14, 1975)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
ISAAC JAROSLAWICZ and JOSEPH JAROSLAWICZ,

Plaintiffs,

-against-

ALBERT A. SEEDMAN,

Defendant.

-----x

AFFIDAVIT

74C 1509

ALBERT A. SEEDMAN, being duly sworn, deposes and says:

That he is the defendant in this action and as such is fully familiar with the facts and circumstance incident hereto.

That at all times relevant he held the position of Chief of Detectives of the Police Department of the City of New York, and that he is presently employed by Alexander's, Inc.

That the events out of which the instant action arose began at approximately 7:55 P.M. on the 20th day of October, 1971, when four shots were fired through a window into an eleventh floor room of the Soviet Mission to the United Nations at 136 East 67th Street in the City of New York. Four children were in the room at the time but none were injured.

That a representative of the Soviet Mission promptly filed a complaint with the 19th police precinct charging a person or persons unknown with a crime of Reckless Endangerment in the First Degree, a felony punishable by up to seven years imprisonment. The deponent was immediately informed of the incident and responded forthwith to the roof of Hunter College, the probable emanating point

JA15

of the shots.

That a search of that premises revealed, at the bottom of an airshaft, a .243 caliber Remington rifle equipped with a telescopic sight, two live shells and a guitar case; four spent shells were discovered on a sixteenth floor terrace. A ballistics examination, completed prior to Jaroslawicz's arrest, established that the shots that had entered the Soviet Mission had been fired from this rifle. Utilizing the serial number of the weapon, the origin of the rifle was traced through the manufacturer to a retail dealer in Hempstead, New York, Charles Greenblatt, Inc.

That during the afternoon of October 21st detectives under deponent's command interviewed Mr. Sol Jacobson, vice-president of Charles Greenblatt, Inc., and Kenneth Aull, an employee of the firm, at the store in Hempstead. A check of the company's records indicated that the Remington rifle had been sold on October 11th 1971, to one who identified himself as "Henry Faulkner" of 830 Arthur Avenue, Bronx, New York. Both Jacobson and Aull were present when the rifle was sold, Jacobson having made the sale and Aull having adjusted the telescopic sight to suit the buyer's needs.

That investigation revealed that the number on the selective service card presented by the purchaser was not assigned to a "Henry Faulkner", and that the address given, 830 Arthur Avenue, in the Bronx, was non-existent.

That because the nature of the target of the sniper indicated the possible involvement of the militant Jewish Defense

JA16

League, a collection of photographs of the active members of the organization was displayed to Jacobson and Aull. The photographs of two individual were selected as being the possible purchaser of the rifle: Isaac Jaroslawicz and Lawrence Fine.

That on returning to the 19th Precinct with Jacobson and Aull one of the detectives observed Jaroslawicz seated in an automobile parked at the intersection of 67th Street and Third Avenue. Jaroslawicz was approached by the officer and was asked to voluntarily accompany the officer to the nearby 19th Precinct stationhouse. Jaroslawicz thus voluntarily entered the stationhouse between 5:30 and 6:00 PM on the 21st of October. In response to a telephoned request Lawrence Fine voluntarily appeared at the stationhouse shortly thereafter.

That deponent, having been informed of these events, ordered that Jaroslawicz and Fine be placed in a line-up for viewing by Jacobson and Aull. Bertram Zweibon, attorney for the Jewish Defense League who had accompanied Fine to the stationhouse, actively participated in the formation of the line-up which consisted of Jaroslawicz, Fine and seven police officers who were of similar physical appearance to the former two. The line-up was conducted between the hours of 7:20 and 8:10 PM.

That upon the viewing Jacobson selected a police officer who bore a striking resemblance to Jaroslawicz and later admitted that, after seeing that officer, he did not concentrate on the others. Kenneth Aull, however, did not hesitate in identifying Jaroslawicz as the purchaser of the rifle. Aull's identification had to be accorded particular credence because, in adjusting the telescopic sight for the buyer only ten days prior, he had an

excellent opportunity for a detailed observation of the individual.

That on the basis of this eyewitness identification a search warrant was issued that evening by Judge Solnick, Part AR-3, Manhattan Criminal Court, for the premises of Jaroslawicz's home in Brooklyn. The warrant was executed in the early morning hours of October 22nd.

That subsequent to the line-up identification Jaroslawicz was questioned in the presence of his attorney, Mr. Zweibon. He refused to respond to any of the inquiries and did not seek to offer an alibi or defense of any nature. Nor did he comply with a request for a handwriting sample that could be accurately compared with that of the signature of "Henry Faulkner" on the purchase forms for the weapon. In short, other than a flat statement of innocence, Jaroslawicz, after being identified as the purchaser of the rifle, refused to provide any information that could be exculpatory in nature.

That because the making of false and fictitious statements in connection with the acquisition of a firearm is a violation of federal gun control legislation, agents of the Alcohol, Tobacco and Firearms Division of the United States Treasury Department were notified when Jaroslawicz entered the stationhouse, and were present thereat during the evening hours of October 21st.

That the arrest of Jaroslawicz was effected by the Treasury Department agents and not by the deponent or any police officer under his command. For reasons of efficacy Jaroslawicz was booked and fingerprinted at the 19th Precinct before he was taken by the Treasury agents to the Federal House of Detention, the booking being

recorded at the Precinct as being "FOA" ("For Other Authorities").

That the deponent was wholly without authority to direct or order the agents of the United States government to arrest Jaroslawicz, and did not attempt to issue such an order or direction. Furthermore, as the Treasury agents entered the case by way of "adoption", i.e. though initial investigatory efforts of an outside agency, departmental policy dictated that they could only make the arrest by order of a United States Attorney. That order was given by Robert Morse, then United States Attorney for the Eastern District of New York. As a federal offense had been committed and as the shooting incident was one of national significance, the deponent had been in contact with Mr. Morse and had apprised him of the developments of the police investigation. Needless to say, the deponent could not order or direct the United States Attorney to cause Jaroslawicz's arrest. Additionally, the deponent was not a complainant and took no part in, the criminal proceeding against Jaroslawicz that was instituted in the United States District Court for the Eastern District of New York.

That Isaac Jaroslawicz's presence in the 19th Precinct stationhouse was occasioned by his voluntary submission to interrogation and other procedures incident to the legitimate police investigation of the shooting at the Soviet Mission. He was not physically restrained by the deponent or those under his command. His attorney was present at all times and neither one protested his continued presence in the stationhouse. Regardless of these voluntary aspects, the positive eyewitness identification of Jaroslawicz by Kenneth Aull justified whatever detention he may have been subjected to as a necessary adjunct to an on-going police

investigation.

That, in sum, the totality of my estate (and then some, to say the least) is sought to be denuded for my having played a derivative role in a federal arrest which was made on the basis of evidence which caused and triggered a Federal grand jury to indict Jaroslawicz and a New York Criminal Court Judge to issue a search warrant for Jaroslawicz's apartment.

Attached hereto as Exhibit "C" is a copy of the affidavit prepared by Alfred Meyn a Special Investigator of the Alcohol, Tobacco and Firearms Division of the United States Treasury Department, which sets forth the very evidence which served as the basis for the arrest of Jaroslawicz by federal agents. The evidence set forth in the Meyn affidavit was that evidence known to me on the evening of October 21, 1971.

Attached hereto as Exhibit "A" is the federal indictment of Jaroslawicz which was issued on the basis of the evidence attested to in the Meyn affidavit.

Attached hereto as Exhibit "D" is the affidavit of Detective Donald Brown which served as the basis of the issuance of a search warrant by Judge Solnick of the Criminal Court for the search, during the evening of October 21, of the Jaroslawicz apartment. In fact, the search warrant was issued prior to Jaroslawicz's arrest, so that the evidence used to effect said warrant was no greater than the evidence which served as the basis for the arrest.

Federal agents, the United States Attorney for the Eastern District of New York, a Criminal Court judge, a federal grand jury and

JA20

large numbers of New York City detectives all acted on the basis of evidence which, centrally, was bottomed on an eyewitness identification of Jaroslawicz made at a line-up supervised by Jaroslawicz' counsel.

It is hard to imagine, in light of the above, how any federal action can be maintained against me for my conduct in connection with the arrest of Isaac Jaroslawicz, by federal authorities, in the early morning hours of October 21, 1971.

That deponent was personally served with the summons and complaint in this action on the 5th day of December, 1974.

Sworn to before me this

(3rd) day of February, 1975.

/s/
ALBERT A. SEEDMAN

RICHARD A. STEINBERG
Notary Public, State of New York
No. 31-4518556
Qualified in New York County
Commission Expires March 30, 1976

EXHIBITS ANNEXED TO FOREGOING AFFIDAVIT

EXHIBIT A - GRAND JURY INDICTMENT OF ISAAC M. JAROSLAWICZ JA21

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED

UNITED STATES OF AMERICA

-against-

ISAAC M. JAROSLAWICZ,

Defendant.

RECEIVED
FBI

NOV 10 1971

(Title 18, U.S.C. §924(a);
Title 50, U.S.C. App.,
§462(b)(5))

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 11th day of October, 1971, within the Eastern District of New York, the defendant ISAAC M. JAROSLAWICZ, in connection with the acquisition of a .243 caliber Remington Autoloading Rifle from Charles Greenblatt, Inc., 120 Main Street, Hempstead, New York, a licensed dealer in firearms, did knowingly make a false statement and representation with respect to the information required to be kept in the records of said dealer pursuant to Title 18, United States Code, §923, in that he knowingly and falsely identified himself as Henry Faulkner, of 830 Aruther Avenue, Bronx, New York. (Title 18, United States Code, §924(a)).

COUNT TWO

On or about the 11th day of October, 1971, within the Eastern District of New York, the defendant ISAAC M. JAROSLAWICZ had in his possession a certificate purporting to be a certificate issued to Henry Faulkner, Selective Service No. 50-26-52-376, pursuant to the Military Selective Service Act of 1967, Title 50, United States Code App., §§451-56 and §§458-71, and the rules and regulations

"A"

JA22

promulgated thereunder, knowing the same to be falsely made,
reproduced, forged, counterfeited and altered. (Title 50,
United States Code App., §403(b)(1)).

A TRUE BILL.

FORFEIT.

Robert A. Morse
ROBERT A. MORSE
United States Attorney
Eastern District of New York

EXHIBIT B - MAGISTRATES REPORT

JA23

0.109
REV. 7-70)

UNITED STATES MAGISTRATE

Eastern

DISTRICT OF

New York

RECORD OF PROCEEDINGS IN CRIMINAL CASES

STORE VINCENT A. CATOGGIO

(Name of magistrate)

225 Cadman Plaza E., B'klyn, NY

(Address)

MAGISTRATE'S
DOCKET NO. 71 CASE NO. 1510
THE UNITED STATES
vs.

ISAAC M. JAROSLAWICZ

Complaint filed on Oct. 22, 19 71, by Alfred A. Hays
Official title S/I Alcohol, Tobacco FD, charging violation of
United States Code, Title 18, Section 922(a)(6) Oct. 11
19 71, at Title 18 in the Section 924(a)
division of the Eastern district of New York
as follows: Defendant did make a false and fictitious
statement in the purchase of a firearm from a
licensed dealer.

(Here insert brief summary of facts constituting offense charged)

WARRANTS OR SUMMONS ISSUED:

Date _____ Warrant/Summons for _____
(Name of defendant)
to (name and title of officer) _____
Substance of return _____
Date _____ Warrant/Summons for _____
(Name of defendant)
to (name and title of officer) _____
Substance of return _____

PROCEEDINGS ON FIRST PRESENTATION OF ACCUSED TO MAGISTRATE:

Date October 22, 1971 Arrested by Complainant

on warrant of _____
(Name of issuing officer)
without warrant.

Appearances { for United States E.J. Boyd
(Name) (Address)
for accused Martin Elefant (Retained) 16 Court St. B'klyn, NY
(Name) (Address)

Proceedings taken

(Here insert with dates, when appropriate, a verbatim account of essential steps taken at hearing such as "complaint prepared")

DEFENDANT INFORMED OF COMPLAINT AND RIGHT TO RETAIN COUNSEL.

If arrest is without warrant: "defendant informed of complaint and right to retain counsel and preliminary hearing"; "preliminary examination waived."

U.S. MAG. FORM #1 ATTACHED

If that is the fact, any adjournments taken, etc.

HEARING SCHEDULED NOVEMBER 10, 1971 AT 2:00 P.M.

Outcome NOVEMBER 9, 1971 - INDICTMENT FILED - SEE 71 CR 1149

Surety

Bail fixed October 22, 19 71 Amount, \$ 25,000/ Bonded October 22, 19 71, by _____
deposited by (name) _____ Address _____
transmitted to clerk of district court _____, 19 _____ [or] by _____
(name) PUBLIC SERVICE MUTUAL INSURANCE CO. Address _____
(name) _____ Address _____
justified by affidavit dated _____, 19 _____, [or] committed to _____
on _____, 19 _____

"B"

JA24

Subscribed for witness (name of witness) _____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

_____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

_____, 19____, for (name of witness) _____
 at request of (name of party) _____
 Substance of return _____

PRELIMINARY EXAMINATION:

(Not to be used if case was disposed of at first presentation)

Date _____ Appearances for _____

United States (Name) _____

(Address) _____

Accused (Name) _____

(Address) _____

WITNESSES FOR UNITED STATES: (List names and addresses)

WITNESSES FOR ACCUSED: (List names and addresses)

Witness payroll containing _____ names certified to United States Marshal for payment _____, 19____
 Proceedings taken _____

Outcome _____
 Bail fixed _____, 19____ Amount, \$ _____ Bonded _____, 19____, by cash
 deposited by (name) _____ Address _____
 transmitted to clerk of district court _____, 19____
 [or] by surety (names) _____ Address _____
 and _____ Address _____
 who justified by affidavit _____, 19____ Committed to _____
 on _____, 19____

Certified to be a correct transcript.

Made this 10th day of November, 1971

Transmitted to Clerk of United States District Court for the Eastern
 district of New York, November 10, 1971

FILED
 IN CLERK'S OFFICE
 U. S. DISTRICT COURT E.D. N.Y.

VINCENT A. CATOGGIO
 United States Magistrate

★ NOV 10 1971 ★

1:06 A.M.
 P.M.

U.S. DISTRICT COURT E.D. N.Y.

Abstract

Section 2. (a) (6) Title 17

U. S. C. A. 07

Gallons capacity

Quantity of material seized

Capacity

FACTS OF THE ARREST

• CREGON 9-1040

4 Martin Elephant Co
16 Court St

D. H. FRANK & SONS

22 EAST 4TH STREET
NEW YORK, N. Y. 10010

Given to be for this
2nd day of October 19 71
VINCENT A. CATOCCIO

Alfred Newman

[Faint handwritten notes, possibly bleed-through from the reverse side.]

JB:lag
P.#717296

EXHIBIT C - AFFIDAVIT OF ALFRED A. MEYN
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JA26

----- X
UNITED STATES OF AMERICA,

- against -

18 U.S.C., 922(a)(6)
18 U.S.C., 924(a)

ISAAC M. JAROSLAWICZ,

Defendant.

----- X
EASTERN DISTRICT OF NEW YORK, SS:

ALFRED A. MEYN, being duly sworn, deposes and says that he is a Special Investigator of the Alcohol, Tobacco and Firearms Division, United States Treasury Department, duly appointed according to law and acting as such.

On or about the 11th day of October 1971, within the Eastern District of New York, the defendant ISAAC M. JAROSLAWICZ, in connection with the acquisition of a firearm from a licensed dealer in firearms, did knowingly make a false and fictitious statement likely to deceive such dealer with respect to a material fact as to the lawfulness of the sale of such firearm, pursuant to Chapter 44, Title 18, United States Code, in that he furnished and exhibited false, fictitious and misrepresented identification in violation of Section 922(a)(6) and Section 924(a), Title 18, United States Code.

The source of your deponent's information and the grounds for his belief are:

(1) Investigation by members of the New York City Police Department which revealed that on or about October 20, 1971, approximately four (4) shots struck and entered the Russian Mission of the United Nations located at 130 East 47th Street, New York, New York, said shots having been fired from the direction of Hunter College;

(2) Further investigation by members of the New York City Police Department which revealed a Remington-Anderson Rifle

.243 caliber rifle, serial number 6942761 to have been discarded
in an airshaft at Hunter College; JA27

(3) Further investigation by members of the New York City Police Department which revealed that the Remington Autoloading rifle described in paragraph two (2) fired the projectile which struck and entered the Russian Mission as described in paragraph one (1);

(4) Investigation by Special Investigators of the Alcohol, Tobacco and Firearms Division of the United States Treasury Department which revealed that the aforementioned Remington Autoloading rifle, serial number 6942761 had been shipped to Charles Greenblatt, Incorporated, Hempstead, New York, within the Eastern District of New York for the purpose of retail sale;

(5) Investigation by Special Investigators of the Alcohol, Tobacco and Firearms Division, United States Treasury Department which revealed that Charles Greenblatt, Incorporated, 120 Main Street, Hempstead, New York, is a licensed dealer within the meaning of the National Gun Control Act of 1968;

(6) Further investigation by Special Investigators of the Alcohol, Tobacco and Firearms Division, United States Treasury Department which revealed that on or about October 11, 1971, a lone white male appeared at Charles Greenblatt, Incorporated and requested to purchase a Remington Model 740 in .243 caliber and further requested that said rifle be fitted with a telescopic sight. In conjunction with this purchase, the aforesaid white male presented a Selective Service System registration certificate no. 50-26-52-376 in the name of one Henry Faulkner, 830 Aruther Avenue, Bronx, New York 10457;

(7) Investigation by your deponent and other Special Investigators of the Alcohol, Tobacco and Firearms Division, United States Treasury Department, which revealed that Selective Service System card no. 50-26-52-376 was held in the name of an individual other than Henry Faulkner, and further investigation which revealed that 830 Aruther Avenue, Bronx, New York 10457, is the residence of one Henry Faulkner, who is a resident of the Eastern District of New York.

non-existent;

(8) A positive identification by one Kenneth Aull, an employee of Charles Greenblatt, Incorporated of the defendant ISAAC M. JAROSLAWICZ as the individual who purchased the aforementioned Remington Autoloading rifle on or about October 11, 1971.

WHEREFORE, your deponent respectfully requests that the above named defendant ISAAC M. JAROSLAWICZ be dealt with according to law.

Sworn to before me this
22nd day of October 1971.

VINCENT A. CATO

UNITED STATES MAGISTRATE
EASTERN DISTRICT OF NEW YORK

Alfred Meyer

A TRUE COPY

VAC
U.S. Magistrate

Det. Donald Brown 1932

being duly sworn, deposes and says:

1. I am a detective assigned to the 19th Detective Squad of the New York City Police Dept.
2. I have information based upon investigation that:

At 7:55 PM on October 20, 1971, 4 shots were fired from a rifle into a room located at 136 East 67th Street, NYC, in the City, State and County of New York, which premises houses the Soviet Mission to the United Nations;

Said shots were fired from the roof of a Hunter College building located at 695 Park Avenue, NYC;

At the bottom of an airshaft adjacent to said roof, were found 1 Remington Semi-Automatic rifle, .243 Calibre, Serial #6942761 along with 1 guitar case;

Said rifle has been traced to a gun dealer, to wit: Charles Greenblatt, Inc., of 120 Main Street, Hempstead, N.Y.;

A gunsmith by the name of Kenneth Aull who works at the shop of said dealer has identified one Isaac Jaroslawicz as being the purchaser of said rifle, the purchase having taken place on October 11, 1971;

At the time of purchase said Isaac Jaroslawicz did use a fictitious name, to wit: Henry Faulkner, and did have a Sniperscope affixed to said rifle and did make inquiries concerning the purchase of ammunition for said rifle;

Immediately following the shooting, phone calls were received by various news media regarding the shooting and the caller used the phrase, "Never again";

Said Isaac Jaroslawicz is a member of the Jewish Defense League, which organization has the motto "Never again";

Said Isaac Jaroslawicz is known to the New York Police Department as having a criminal record and is known to reside on the 2nd floor of 952 44th Street, Brooklyn, N.Y.

NIGHTTIME SERVICE IS REQUESTED IN THAT AN ARSENAL OF DEADLY WEAPONS MIGHT BE PRESENT IN THESE PREMISES AND THE SECURITY OF THE DEPENDENT IS THEREBY THREATENED.

3. Based upon the foregoing reliable information and upon my personal knowledge there is probable cause to believe that such property, to wit: ammunition for a Remington .243 calibre rifle, evidence of the purchase of said rifle, a floor plan of Hunter College and the Soviet Missions, identification bearing the name Henry Faulkner, and any evidence tending to show that said Isaac Jaroslawicz did commit the crime of reckless endangerment, 120.2b 1,

or at premises, 2nd floor, 952 44th Street, Brooklyn, N.Y.

WHEREFORE, I respectfully request that the court issue a warrant and order of seizure, in the form annexed, authorizing the search of

and directing that if such property or evidence or any part thereof be found that it be seized and brought before the court; together with such other and further relief that the court may deem proper.

No previous application in this matter has been made in this or any other court or to any other judge, justice or magistrate.

Donald Brown 1932 D.T. 1874-0

To any peace officer in the City of New York.

JA30

Proof by affidavit (or deposition) having been made this day before me by

Det. Donald Brown #1932 19 Det. Sqd.

that there is probable cause for believing that certain property used to effect the crime of Reckless Endangerment, to wit: ammunition for a Remington .243 c liber rifle, identification bearing the name, Henry Faulkner, evidence of the purchase of a Remington rifle, Serial #6942761, a floor plan of Hunter College and the Soviet Mission to the United Nations and a guitar.

You are therefore commanded, between 6:00 A.M. and 9:00 P.M. or at any time

to make an immediate search of 2nd floor, 952 44th St., Eln., NY

occupied by anyone.

and of the person of

and of any other person who may be found to have such property in his possession or under his control or to whom such property may have been delivered, for

and if you find any such property or any part thereof to bring it before me at Part
at

Street, New York City.

Dated at New York City,

Police Officer

Judge H. H. H. SLOTHICK

AFFIDAVIT OF STUART A. SCHLESINGER IN OPPOSITION TO THE DEFENDANT'S MOTION (Filed April 21, 1975)

JA31

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ,

74 : 1509

Plaintiffs,

J. Bruchhausen

-against-

ALBERT A. SEEDMAN,

Defendant.
----- x

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

STUART A. SCHLESINGER, being duly sworn, deposes and says:

I am a member of the firm of Julien & Schlesinger, P.C., attorneys for the plaintiffs herein, and am fully familiar with all the facts and circumstances herein. I am making this affidavit in opposition to the defendant Seedman's motion seeking to dismiss the amended complaint in this action or, in the alternative, for summary judgment.

The defendant Seedman originally brought on the identical motion based upon the same papers now before the court in the present motion with regard to plaintiffs' original complaint. In essence, the defendant objected to the original complaint on the grounds that it was not specific, that it failed to state that the plaintiff Isaac Jaroslawicz was discriminated against because he was a member of a certain group or organization, and that the statute of limitations had expired.

In an attempt to avoid needless motion practice, prior to the adjourned return date of the defendant's motion, the plaintiffs, as a matter of right pursuant to the Federal Rules of Civil Procedure Rule 15, served an amended complaint upon the attorneys for the defendant on or about April 1, 1975. The amended complaint cured all of the alleged defects claimed by

the defendant and the plaintiffs and their counsel were confident that this motion would be withdrawn as moot. Instead of withdrawing the motion, the defendant merely directed it at the amended complaint.

A reading of the plaintiffs' amended complaint and the defendant's moving papers on this motion makes it obvious that the defendant's motion has little merit, that any of the alleged defects claimed by the defendant with regard to the original complaint have been cured, and much of the defendant's moving papers makes little sense when read in conjunction with plaintiffs' amended complaint now pending before the court. The plaintiffs' amended complaint also clearly sets forth within the complaint (Paragraph "FIFTEEN") that the plaintiff, Isaac Jaroslawicz, was born on August 30, 1953, and was an infant until August 30, 1974, thus tolling any applicable statute of limitations, and that this action was brought within 2 months of the plaintiff Isaac Jaroslawicz reaching his majority.

Despite the fact that the defendant's motion had little merit to it when directed to the original complaint, and has no merit with regard to the amended complaint, since the defendant has refused to withdraw this motion, the plaintiffs are compelled to respond to it.

I have read the affidavit of Albert A. Seedman in support of the defendant's motion to dismiss. I have also read the relevant pages of a book written by defendant Seedman entitled "Chief", which was recently published and which concerned itself with various cases handled by the defendant Seedman during his career as Chief of Detectives of the New York City Police Department. One of the incidents related in the book, "Chief", is the incident out of which this action has arisen (the relevant pages of the book in question, pp. 318-330, are appended hereto as Exhibit A, and a complete copy of the entire book will be made available to the Court if the Court so desires).

The defendant Seedman's affidavit in support of the motion to dismiss and the book written by the defendant Seedman, both of which allegedly give the "true" facts concerning the arrest and prosecution of Isaac Jaroslawicz and the role the defendant Seedman played in that incident, read as if there were two totally separate incidents which the defendant Seedman is relating rather than the single arrest of the plaintiff Isaac Jaroslawicz.

A copy of the relevant pages of the book has been appended as Exhibit A and this Court can see for itself the direct contradiction between the statements made by defendant Seedman in his affidavit and his prior statements made in his book before this action was started and before Seedman had a motive to tailor his testimony.

In this affidavit I will only attempt to point out several of the most flagrant contradictions which occur in the affidavit and the book:

In his affidavit, Seedman claims that the defendant Isaac Jaroslawicz voluntarily accompanied a New York Police Officer to the 19th Precinct where the plaintiff Isaac Jaroslawicz voluntarily appeared in the line-up. In his book, Seedman admits that Isaac Jaroslawicz was arrested by the New York City Police Department and taken into custody, and compelled to enter a line-up (pp. 320, 322, 327). In addition to the contradictions contained in Seedman's own book, Seedman's statement that Isaac Jaroslawicz was not arrested by the New York City Police, but was arrested some time later by federal agents, Seedman's statements are also directly contradicted by the affidavit of Isaac Jaroslawicz dated March 10, 1975 annexed hereto, and the affidavit of Harvey J. Michaelman, sworn to March 7, 1975 and annexed hereto, who clearly state that Isaac Jaroslawicz was arrested by New York City Police Officers and was continued in their custody for at least several hours before federal agents ever appeared on the scene.

Seedman, in his affidavit, claims that he had nothing to do with the federal agents' decision to arrest Isaac Jaroslawicz. In his book, Seedman

admits that he was the moving cause in attempting to induce the federal agents to arrest Isaac Jaroslawicz, that the federal agents had balked at arresting Isaac Jaroslawicz, and that he, Seedman, called the United States Attorney for the Eastern District of New York, as well as the Attorney General in Washington, in an attempt to convince them to have the federal government formally charge Isaac Jaroslawicz with a crime (pp. 321-322).

Seedman states:

But the ATF balked at arresting Jaroslawitz, contending that the case against him was hardly overwhelming. They had a point. Under normal circumstances I never would have ordered Jaroslawitz arrested so quickly. But with everyone so anxious to see fast results, the gunsmith's identification would have to suffice. In the morning George Bush could stand up at the UN and mollify the Russians by announcing that an arrest had already been made. (P. 321-322).

Although Seedman, in his affidavit, takes the position that he had a "good faith" belief that the plaintiff Isaac Jaroslawicz was guilty of a crime prior to directing his detention and arrest, in his book, Seedman sets forth the real reason why Isaac Jaroslawicz was arrested without any sufficient or probable cause for such an arrest except that Isaac Jaroslawicz was a member of the Jewish Defense League. The real reason for Isaac Jaroslawicz' arrest was simply because Seedman was under pressure to be able to show quick results to the Russians who had created a political incident out of the shooting (pp. 319, 320, 322, 327). Seedman admits that "he was under abnormal pressure to get results fast" and that Isaac Jaroslawicz was made a scapegoat so that Seedman and the New York City Police Department could claim to have solved the shooting incident at the Russian mission.

In his book, Seedman admits that

All that time, Burt Zweibon, lawyer for the JLL, was hollering that his client was being railroaded to placate the Russians. I have heard lawyers yell louder

for less reason. But with the President planning to visit Russia later in the year, I was not about to allow a dopey teen-ager from Brooklyn to cast a shadow on that event. (emphasis added)

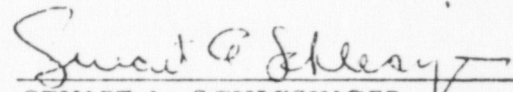
The contradictions found in Seedman's book are by themselves sufficient for this Court to deny the defendant's motion for summary judgment. Since the defendant's motion to dismiss the plaintiffs' action for failure to state a cause of action contains materials outside the pleadings, Rule 12(b)(6) of the Federal Rules of Civil Procedure requires the court to treat it as a motion for summary judgment as well. However, in addition to Seedman's own admissions in his book which directly contradict the statements in his moving affidavit, the affidavits of Isaac Jaroslawicz and Harvey J. Michaelman, Esq., appended hereto, directly contradict the statements made by Seedman in support of the defendant's motion for summary judgment.

On a motion for summary judgment the court is not to decide questions of fact, but only to determine if there are any questions of fact.

In light of the conflicting affidavits and admissions made by defendant Seedman in his book, there is a question of fact for the jury to decide as to whether or not Seedman had a "good faith" belief as to whether Isaac Jaroslawicz was guilty of any crime when he ordered Isaac Jaroslawicz' arrest. It is also a question for the jury as to whether or not Isaac Jaroslawicz voluntarily accompanied New York City Police Officers to the precinct or whether he was under arrest when he was taken to the precinct.

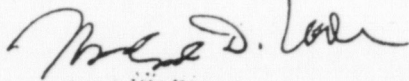
In light of these fact questions, among others, the defendant's motion for summary judgment should be denied in all respects and the plaintiff Isaac Jaroslawicz is entitled to have a jury determine whether or not Seedman's claims in his affidavit are truthful or if Seedman's book, which in large part confirms the plaintiffs' contentions, is a more accurate description of what actually took place.

WHEREFORE, plaintiffs respectfully request that defendant's
motion be denied in all respects.


STUART A. SCHLESINGER

Sworn to before me this

16th day of April, 1975.



MICHAEL D. ...
Notary Public, State of New York
No. 91450022
Qualified in New York County
1670 2nd St. New York, NY 10013

AFFIDAVIT OF ISAAC JAROSLAWICZ IN OPPOSITION TO THE DEFENDANT'S MOTION (Dated March 10, 1975) JA37

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ,

74C1509

Bruchhauesen, J.

Plaintiffs,

- against -

ALBERT A. SEEDMAN,

Defendant.

-----v
STATE OF NEW YORK)

COUNTY OF NEW YORK) SS:

ISAAC JAROSLAWICZ being duly sworn, deposes and

says:

I am the plaintiff in this action and as such am fully familiar with the facts and circumstances of the incident being complained of.

Within a day after shots were fired into the Russian Mission to the United Nations in October, 1971, I was arrested by New York City Police Department Detectives acting upon the orders and directions of the defendant, Albert A. Seedman, who at that time was the Chief of Detectives of the City of New York. For a substantial period of time, several hours after my arrest, I was denied the right to call my attorney; was put into a line up which was directed at having me picked out as a defendant and was otherwise mistreated and had my constitutional and civil rights violated.

The mistreatment and other violations of my constitutional and civil rights were not brought about because I was legitimately suspected of having committed any crime but solely because I was a member of the Jewish Defense League and the New York City Police Department and particularly the defendant, Albert A. Seedman, were seeking a scapegoat so that they could mollify the Russians who had created a political incident out of the shooting.

A. Seedman, is moving to attempt to have my action dismissed and is claiming that I was not under arrest while in the custody of the New York City Police Department that I voluntarily accompanied the New York City Police Detectives to the 19th precinct and then voluntarily remained there so as to assist in their investigation; that I was never arrested or taken into custody by the New York City Police and that it was Federal Agents from the Alcohol, Tobacco and Firearms Division of the Treasury Department who took me into custody and arrested me. This is totally and completely untrue. The circumstances of my arrest and the actions which occurred subsequent to it are as follows:

That on or about October 22, 1971, in the afternoon of that day, I was sitting in an automobile situated near 67th Street near Third Avenue in New York City when a car pulled up, parked in front of me and five or six men got out and approached my vehicle.

One of the men was known to me to be a New York City Detective by the name of 'Joe' Beatty. One of the men asked for my license and registration and I asked him to identify himself before I provided any information. He then produced a shield from the New York City Police Department and repeated his request. After being satisfied that the person in question was a member of the New York City Police Department, I complied with his request and produced my license and the registration to the automobile. After producing my license, I was ordered to leave the vehicle in which I was seated, being told in substance, "open the door and get out or we'll get you out". After getting out of the automobile, I was surrounded by these six men and grabbed by both arms, they dragged me across the street towards the 19th precinct. While being dragged to the precinct by these Detectives, I began to scream that I was being abducted. I was told to 'shut up' and hurriedly dragged along to the precinct.

Detectives voluntarily nor did I volunteer to accompany them to the precinct.

It was solely through the exercise of physical force and threats which compelled me to accompany the New York City Police to the precinct.

Once inside the precinct I was taken upstairs and ordered to sit down. I thereupon asked the detectives present if I was under arrest

and what the charge was. Because if I was not under arrest and not being charged with a crime, I wanted to leave. I was advised by the New York

City Police Detectives, who were present, to sit down and stay where I was

or I would be placed in a cell. I also asked to call my attorney and I was

told to 'sit down and shut up'. At this point I stated that if I was not under

arrest, I was going to leave, and started walking towards the door. I was

grabbed by several detectives and physically forced to sit in a chair while

two detectives, one on each side of me, stood by me to make certain I could

not get up. While I was present at the precinct, various detectives took

turns interrogating me. I, on numerous, occasions requested permission to

call my attorney and advised them that I would not answer any questions until

my attorney arrived.

Somehow, the fact that I was in custody had been conveyed to Harvey Michelman, an attorney who represented the Jewish Defense League and its members. A few hours after I was first taken into custody Mr. Michelman

arrived at the precinct. When he entered the room where I was being held, he

had a conversation with several detectives, including the defendant, Albert

A. Seedman, and inquired as to what the charges against me were. When

they refused to respond he said to me in substance "if you are not under

arrest then let's get out of here". Following my attorney's instructions, I

attempted to leave the room in which I was being held, I was physically

restrained by several New York City Detectives. After this Mr. Michelman

entered into an argument with several detectives, one of whom was the

defendant, Albert A. Seedman, as to what the charges against me were and

why I was being held in custody when they refused to advise me or my attorney what the charges against me were. During almost all of the time the incident referred to above occurred, the defendant, Albert A. Seedman, was present in the room where I was being held, issuing orders and giving instructions to various other police officers as to what should be done with regard to me.

Some time later, while still being held in custody at the precinct, I was compelled to enter a line up to be viewed by certain persons who would attempt to identify me as being the party who had purchased the rifle which had been used to shoot at the Russian Mission.

The line up was conducted in such a manner so that the defendant, Albert A. Seedman, and the other New York City Police Department Detectives would be certain to have me identified as the guilty party. I was not advised that the persons who were to identify me in the line up had previously been shown photographs of me on that very same day. The manner in which the line up was conducted and the other participants in it were also of such an age and demeanor to make it certain I would be chosen. At the time of the line up I was only 18 years of age while most of the other participants were much older. Despite the manner in which the line up was conducted, one of the persons who had been called down to identify me identified a police officer in the line up instead. I was not advised of this.

While at the precinct, I was also compelled to submit my finger and palm prints to the New York City Police Detectives. I had still not been formally booked or charged with any crime, nor was I advised of what crime or violation I was being held for.

Finally, almost twelve hours after first being taken into custody by the New York City Police Department, I was formally booked at

the precinct. After being booked I was turned over to two other men who

JA41

identified themselves as Federal Agents, who advised me I was being charged with a Federal crime and transported to a federal detention facility. Up to the time I was turned over to these two Federal Agents, I had no contact with anyone who had identified themselves to me as anything other than New York City Police Department Detectives. My only contact had been with members of the New York City Police Department who had been acting on the instructions and directions of the defendant, Albert A. Seedman, who was present at the precinct during almost all of the aforementioned proceedings.

I wish to make it clear that at no time did I ever voluntarily accompany any policeman to the precinct nor did I voluntarily stay at the precinct after being taken inside it. I was compelled to enter the precinct through the use of physical force on the part of several New York City Detectives. While at the precinct I constantly inquired as to what crime, if any, I was being charged with and why I was being held in custody. At no time did the detectives or the defendant, Albert A. Seedman, who was present, respond to me. Nor was I permitted to call my attorney. Instead, I was being constantly interrogated by detectives under the direction and instructions of Albert A. Seedman.

I was arrested and kept in custody for 12 hours by New York City Police Detectives solely because I was a member of the Jewish Defense League and because the defendant, Albert A. Seedman, needed "quick action" to placate the Russians who had made a political incident out of the shooting. The defendant, Albert A. Seedman, at all times knew that I had not been guilty of any crime, but since I was a member of the Jewish Defense League and conveniently available he directed and procured my arrest and kept me in custody to serve his own needs so that he could show a quick result to satisfy his superiors.

that I was arrested solely as a matter of convenience and that he knew I was not guilty of any crime; prior to the initiation of this lawsuit and before the defendant, Albert A. Seedman, had any motive to slant the truth so as to protect himself, he wrote a book entitled "Chief". One chapter of which dealt with the Jewish Defense League and a section of that chapter dealing with my arrest for allegedly being involved in the Russian Mission incident. A copy of the relevant pages of that book (pages 318 to 330 is appended hereto as exhibit A). After the court reads the defendant's, Albert A. Seedman, book as to what really occurred during October, 1971 and the real reason for my arrest it will see for itself that I was made a scapegoat. In his book, the defendant, Albert A. Seedman, admits that there was no case against me (page 322) and that the Federal Agents did not wish to arrest me (pages 321-322) and that it was the defendant, Albert A. Seedman, who called the United States Attorney in the Eastern District and the Attorney General in Washington seeking to have them order my arrest.

As a result of the defendant's, Albert A. Seedman, actions and the worldwide publicity attendant to my arrest for the crime, which the defendant, Albert A. Seedman, knew I had not committed when he had me arrested I received numerous threatening letters and harrassing telephone calls affecting my mental and physical well being and requiring me to receive medical attention. My future prospects and career plans were also ruined by the actions of the defendant, Albert A. Seedman, in causing me to be arrested for a crime which he knew I had not committed. If the defendant, Albert A. Seedman, wanted to satisfy his superiors and mollify the Russians, the law does not permit him to do so at my expense and in violation of my constitutional and civil rights.

My action is not time barred since I was 18 years old in

October, 1971 and I did not become 21 years of age until August 30, 1974, and this action was commenced within two months of my 21st birthday.

WHEREFORE, I respectfully request that the defendant's motion to dismiss my complaint be denied in all respects and that a jury be permitted to decide as to what relief should be awarded to me for the defendant's complete, callous and utter disregard of my civil rights.

Sworn to before me this

10th day of March, 1975

Scott J. Ponter
SCOTT J. PONTER
Notary Public, State of New York
No. 31-453382
Qualified in New York County
Term Expires March 30, 1976

Isaac Jaroslawicz
Isaac Jaroslawicz

JA44

EASTERN DISTRICT OF NEW YORK

Plaintiffs,

ALBERT A. SEEDMAN,

Judge Bruchausen

During the year 1971 I had been retained as the attorney on several occasions to represent various members of the Jewish Defense League. During the late afternoon of October 21, 1971 I was contacted at my office by a member of the Jewish Defense League and notified that several members of the Jewish Defense League had been arrested. I was advised that the members of the Jewish Defense League were arrested for allegedly being connected with several shots which had been fired into the Soviet Mission to the United Nations on the previous day. I was advised that the Jewish Defense League members were being held at the precinct located across the street from the Soviet Mission and I believe the precinct to be the 19th Precinct.

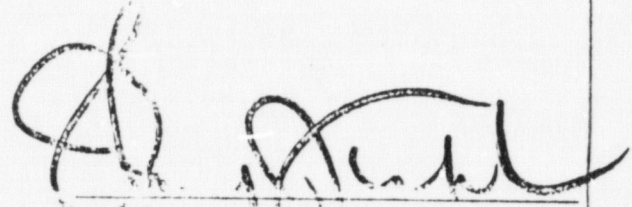
When I arrived in the vicinity, 67th Street was cordoned off and there were barriers across the street. I identified myself to the police officer at the barrier. He then escorted me to the police station where the Jewish Defense League members were being held. When I entered the precinct I stated my business to the person at the desk and was directed to a room on the second floor. In the room there were various members of the New York City Police Department, most of whom were detectives and also present were three members of the Jewish Defense League, one of whom is the plaintiff in this action, Isaac Jaroslawicz. It is my best recollection that a detective by the name of Joe Beattie was present in the room at the time. Also present was Albert A. Seedman, then Chief of Detectives. When I first entered the room in which Albert A. Seedman was present, Seedman was on the telephone.

I addressed myself to the detectives who were in the room and to Seedman as a group and asked them what the charge was against the three members of the Jewish Defense League whom I had been asked to represent. They responded in substance "don't worry about the charge." I then told them that they would either have to charge my clients or release them. When I did not get a response I advised the Jewish Defense League members, one of whom was Isaac Jaroslawicz, that if they were not being charged with a crime, they should get up and leave, whereupon Seedman stated in substance that the members of the Jewish Defense League were not free to go anywhere and would have to remain at the police station.

JA46

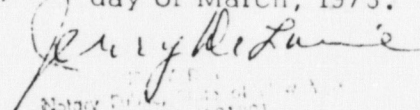
I have been a practicing criminal lawyer for many years and after being present at the precinct on the night of October 21, 1971, it is clear to me that Isaac Jaroslawicz was under arrest while in the custody of the New York City Police Department prior to federal agents arriving at the scene.

Isaac Jaroslawicz was not voluntarily present at the 19th Precinct nor did he voluntarily submit to any interrogation. His presence at the 19th Precinct was occasioned solely by the use of force on the part of the New York City Police Department who would not permit him to leave the Precinct although he attempted to do so in my presence and pursuant to my instructions.



Harvey J. Michelman

Sworn to before me this

7th day of March, 1975.

Notary Public, State of New York
No. 314521021
Qualified in New York County
Commission Expires March 29, 1979

JA47

EXHIBIT A - COVER SHEET AND pp. 318-330 OF A BOOK ENTITLED
"CHIEF" AUTHORED BY THE DEFENDANT

CHIEF!



ALBERT A. SEEDMAN
and **PETER HELLMAN**

A

ARTHUR FIELDS BOOKS, INC.
NEW YORK

While all the incidents in this book are true, many of the names have been changed to protect innocent witnesses or suspects whose cases have not yet come to trial.

I want to extend thanks to Lts. Bernard Jacobs, Joe White; Sgts. John Weber, George Howard, Joe McAndrews; Capt. Angelo Galante; Insps. Eddie Jenkins, Nick NiCastro; Dets. Joe Gibney, Sam Parola, Pete Perotta, Eddie Lambert, Marty Flanagan, John Tartaglia, Tony Cordero, Sandy Tice, Clarence Crabb and Joe Gregorowicz; and especially Arthur Fields.

As for the many members of the Detective Bureau whose story this is as well as mine, no words of gratitude could possibly be adequate.

ALBERT A. SEEDMAN

seen for himself the gangly figure and brooding sallow face of Angelo.

The next month was so quiet that Seedman found himself able to accept social invitations. On the night of October 20 he and Henny went to a cocktail party given by his friends Arthur and Esther Lipps. With all the noise inside, he stepped out for a moment on the terrace overlooking Central Park, dark now except for weavings of light from the crosstown roadways. Twenty blocks up a spray of moonlight washed Belvedere Lake. About this hour one month ago, Reuben Ortiz had strolled into the park with the teen-aged girl from South Carolina. At that same hour detectives were also fanning out in Brooklyn to make the Amtorg arrests.

"Phone for you, Al," called Esther Lipps from the terrace door. Only the duty detective in his office knew where to reach him, and he wouldn't interrupt the Seedmans' night out without a very good reason.

On the line was a duty sergeant from the 19th Squad, which covers the poshest area of the East Side. "Hate to say this, Chief," he said, "but somebody just fired four shots into a bedroom window on the eleventh floor of the Russian Mission on 67th Street. Four of their kids were sleeping inside but, thank God, no one was hit. We think the shots were fired from the roof of Hunter College, across the street. Boy, those Russians are mad!"

All summer and early fall the JDL had been quiet, too quiet. These four shots could be the JDL's way of announcing that summer recess was over and they were back to brew up new trouble.

Leaving his wife to wait in the car, Seedman went up to the roof of Hunter College's seventeen-story main building. There John Mahoney, the sergeant from the 19th Squad, pointed out the eleventh-floor window across the street where the shots had gone in.

"Were the lights on?" asked Seedman.

"Yes, Chief," said Mahoney.

That made the act seem more malevolent than the Amtorg bombing. It meant that the sniper crouched on the roof could figure that people were in the room and was willing to risk hitting them. When the rifle was found shortly after midnight at the bottom of an airshaft in the college building, it looked even worse. The weapon was a brand-new .243-caliber Remington fitted out with a telescopic sight.

"This sniper paid quite a few extra dollars to be able to center his target in the hairlines," says Seedman. "Like the Amtorg incident, it was just fantastic luck that nobody had been killed. Or had that always been the plan in both places—to cause damage but not death? All I knew for sure, as I stood on the roof of Hunter College, was that this incident was going to set off a howl and we had better have something to show for our investigation, fast."

The howl came quickly and from several directions. Within seventy-five minutes of the shots Secretary of State William Rogers had called the Soviet Ambassador in Washington to apologize for the incident. Late that night in Moscow, U.S. Ambassador Jacob Beam was summoned to the Foreign Ministry for an extraordinary dressing down. In the morning, at the UN, Yakov A. Malik, the Russian Ambassador to the UN, attacked the United States for failing to curb the "Zionist hooligans" in its midst. Then he turned on Yosef Tekoah, the Israeli Ambassador to the UN, and challenged him to proclaim to the General Assembly that the Jews were a "chosen people" and "closer to God" than all others.

Trembling with anger, Tekoah rose to say that if the Jews had been chosen for anything, it was to suffer. "It was the Soviet Union, not Zionism or the Jewish people, who concluded a treaty with Hitler and Ribbentrop," he said, referring to the Soviet-German non-aggression pact of 1939. One other incident that may have exacerbated the Russians' ire was a JDL threat to kill two Russian diplomats in the United States if a woman named Silva Zalmanson, a Soviet Jew accused of attempting to hijack a Soviet airliner, died in prison. Some suspected that the sniper's shot had been designed to drive that warning home. Even the Saudi Arabian delegate, Jamil M. Baroody, got into the act by attacking Mayor Lindsay as "... a sycophant who goes to synagogues and acts like a rabbi to obtain Jewish votes." Under the circumstances, Seedman was desperate for a quick face-saving break.

"We started with the rifle," says Seedman. "Unlike the weapons used in gangland shootings, this rifle had been easily found and could be easily traced. In fact, it was brand new with serial number intact. That was surprising. After the shots had been heard it made sense to get rid of the rifle before trying to get out of Hunter College. But once the decision was made to leave the weapon, why didn't they take advance precautions to keep it from being traced?"

"Not that I was complaining. In the morning we were able to

trace the Remington to the firm of Charles A. Greenblatt in Hempstead, Long Island. As it happened, I knew Charlie from the days when his store used to be right around the corner from Police Headquarters. My own hammerless revolver came from his shop."

Detectives drove out to Hempstead with the Explosive-Arson Squad's photo album of active JDL members. When they showed it to the salesman and the gunsmith who had fitted the rifle with its telescopic sight, both men picked out eighteen-year-old Isaac Jaroslowitz. A Brooklyn rabbi's son, Jaroslowitz had been arrested in April during a demonstration at the Iraqi Mission. Detectives rushed to his home but neither his parents nor neighbors were helpful about where he might be. Just the same, Seedman felt he would show up soon. The JDL kids were not the type to dash into hiding. Besides, Jaroslowitz probably would not be able to resist returning to the scene of his crime.

The afternoon after the shooting Seedman ordered Jaroslowitz's photo distributed to the 19th Precinct. Like many JDL kids, he wore a skullcap according to Orthodox Jewish tradition, so he would probably be easy enough to spot. Sure enough, less than two hours after the photos were posted, a 19th Precinct patrolman picked him up at the corner of 67th Street and Lexington Avenue, just down the block from the Russian Mission. He was a bearlike overweight youth with a bushy mustache and a friendly smile. Though initially he made a few stabs at denying any part in the shooting, he did not seem at all upset at having been arrested. If anything, Seedman felt, Jaroslowitz acted as if he had been anointed. Yet the boy clearly was not stupid. How could he behave this way, knowing that he was likely to be jailed for attempted murder? He had to know something that so far the detectives didn't. The whole business made Seedman uneasy.

It was long past dark. Normally Seedman would have waited until morning to see whether the salesman and gunsmith from Greenblatt's could pick out the suspect in a lineup. But he was under abnormal pressure to get results fast. An anxious Mayor Lindsay had called several times for a report on the investigation. The Justice Department had called to relay the Attorney General's concern that all possible measures were being taken to break the case. Seedman decided to have the two men brought in that evening. But even though they had quickly recognized Jaroslowitz in the JDL album, they did not see eager to come into the city now and

pick him out of a lineup. Seedman could understand why. If the JDL was crazy enough to shoot into a room full of children, they might also be ready to go after anyone who identified them. Or worse. Everyone knew the JDL's talent for ingenious harassment.

It was after nine o'clock when the two men finally arrived at the 19th squad office. Jaroslowitz was put into a lineup with nine other young men as strapping as himself. Seedman was dismayed to notice the gun salesman shaking his head every few seconds as if to clear it. He finally did point to Jaroslowitz, but Seedman was not fully satisfied.

"You got problems with your eyesight?"

"Well, I got diabetes," the salesman answered. "It sure hasn't done my eyes any *good*."

"What would you say right now if I told you your wife was in that lineup?" The salesman squinted. He looked from one man to the next, then went painstakingly back down the line. "I don't think she's up there," he said finally.

Seedman sent him home. He would be hopeless as a witness in court.

Luckily, they still had the gunsman. A man who did precise up-close work was bound to have good eyes. Kenneth Aull saw very well indeed. With no hesitation, he picked out Jaroslowitz as the man for whom he had fitted a telescopic sight on a new Remington .243 semiautomatic rifle.

"Now we had to decide what to do with Jaroslowitz," says Seedman. "He had been identified as the purchaser of a rifle, but not as a sniper. We had no reason to accuse him of firing the shots and no evidence that he was part of a conspiracy that culminated in the shooting. He had not been discovered carrying a concealed weapon. In fact, he had done nothing to violate local or state law.

"However, under the Federal Gun Control Act of 1969, a purchaser of a gun must fill out a Federal form identifying himself at the time of sale. The purchaser of this Remington had identified himself with a draft card as Henry Folkner, 830 Arthur Avenue, the Bronx. So once again, as in the Amtorg case, we had to call in the Alcohol, Tobacco and Firearms Division of the Treasury Department to charge Jaroslowitz with purchasing a gun with false identification.

"But the ATF balked at arresting Jaroslowitz, contending that

the case against him was hardly overwhelming. They had a point. Under normal circumstances I never would have ordered Jaroslowitz arrested so quickly. But with everyone so anxious to see fast results, the gunsmith's identification would have to suffice. In the morning George Bush could stand up at the UN and mollify the Russians by announcing that an arrest had already been made.

"At midnight I tried to call Bob Morse to see if he would order the ATF to make the Federal charge right away. There was no answer. Then I called George Bush, who had given me his number in case anything important broke after office hours. Not feeling qualified to decide, he called the Attorney General in Washington. By this time—about two o'clock—Bob Morse came home. After listening to the facts of the case, he checked with the Attorney General and then called back to order Jaroslowitz locked up for violation of the Federal Gun Law. By then it was nearly four A.M."

"All that time, Burt Zweibon, lawyer for the JDL, was hollering that his client was being railroaded to placate the Russians. I have heard lawyers yell louder for less reason. But with the President planning to visit Russia later in the year, I was not about to allow a doney teen-ager from Brooklyn to cast a shadow on that event."

"Before that night was over we had also heard from Meir Kahane, the JDL's founder, leader, theoretician, and chief spokesman. I had met Kahane on several occasions, shortly after the JDL had begun to make news in 1968. The guy looks anything but fanatic. He dresses in quiet well-tailored suits, his hair is short and carefully groomed. It also goes down well with many that he is a patriot, a believer in America, a devoted anti-Communist."

"Still, I had my reservations about Kahane from the first. At the time, of course, the JDL had not yet caused any of the dangerous incidents for which it would soon become infamous. It simply maintained that Jews, traditionally peaceable and book-loving, should now become fighters as well, as the Israelis had done in the Six-Day War. I can't offer any good reason why I did not care for Kahane—nothing that he said or did, just something in his eyes. I know that may sound melodramatic, but a detective learns to trust such reactions, and something in those eyes made me uneasy. I'd call it a lack of reasonableness. I'd seen the look before, in the eyes of other policemen as well as criminals, and no good has ever come from my experience with such people."

"Now, three years later, I found myself asking Kahane whether

his JDL was responsible for the sniper attack. He said it was not, he deplored the incident. For legal reasons he obviously had no choice but to deplore it. Still, I wished he could find some way to be less hypocritical. After all, the responsibility for what these silly kids did weighed heavily on him as an adult, whether he was directly involved or not. They looked up to him. Whatever advice he gave they listened to. Yet, as we would learn, bombs were put together right in the Brooklyn headquarters of JDL, on the same floor where Kahane worked.

"The arrest of Jaroslowitz took us off the hot seat in the sniper case. The kid had been identified by the gunsmith, he was a JDL activist, and though he claimed he hadn't bought a rifle, it was plain that he sympathized with what had been done. The case looked even better when, in an address book belonging to Jaroslowitz, we found an entry for Greenblatt's gun shop."

Jaroslowitz was arraigned in Brooklyn Federal Courthouse the day after his arrest for giving false identification when purchasing a rifle and using a forged draft card. U.S. Attorney Morse argued that bail should be set at a whopping \$100,000 since JDL members had been known to jump bail set as high as \$25,000. As Meir Kahane and a small group of JDL members sat glowering darkly in the empty courtroom, Morse went on to recite one such example after another.

Morse concluded his detailed presentation, and bail was set at \$25,000. He turned to leave the courtroom. Blocking the aisle, eyes burning, was Kahane. "Not only don't you help the Jews, you hurt the Jews," Kahane said. "I am ashamed you are a Jew. Your brother wrote about Jews like you."

"The wrong Morse died," added a younger JDL member.

Morse ignored that. He stared at Kahane, his jaw twitching. "I do not lose my temper," he said in a low tight voice. He walked out of the silent courtroom as Kahane continued to glare at his back.

Kahane had been referring to the attorney's brother, Arthur D. Morse, who had been killed only a few months earlier in an auto accident in Yugoslavia. A year earlier he had written a book, *While Six Million Died*, which accused the Roosevelt Administration of doing little to help European Jews, even though it was aware that they faced no future but extermination. When reporters later asked Kahane why he had brought up the matter now, he answered by

telling a story. Some young Russian draftees went to their rabbi to ask if they could eat pork while in the army. If they had to eat pork to live, they should do so, the rabbi answered, but they should not suck on the bones. Kahane conceded that it was Robert Morse's duty, as U.S. Attorney, to request high bail for Jaroslowitz. But then he should have shut up instead of hammering away. "He was sucking the bones," said Kahane.

"As suspects go," says Seedman, "Jaroslowitz looked good. Yet even after the arraignment, I didn't have the right feeling about him in my gut. This fat, smiling, relaxed kid, who had appeared to be the only one enjoying himself during the long exhausting night we had him in custody, might have done some silly things, but he had the wrong look and wrong face for a sniper.

"Jaroslowitz's grandmother had come up with one small fact in his favor. She pointed out that Isaac never would have bought a gun on October eleventh. That was the minor Jewish holiday of Sh'mini Atseret, marking the day on which King Solomon dedicated the first temple in Jerusalem. Isaac, son of a rabbi and a genuinely religious kid who attended synagogue services every morning, had been in synagogue all day, she said. Of course, he could have taken time out to buy a gun at Greenblatt's, but I tended to doubt it. The kid was just giving me all the wrong signals. But if he was not the sniper, we had another way to find out who was. Gibney and Parola would have to go to Angelo."

On the evening of Jaroslowitz's arraignment Parola met Angelo at one of their favorite spots, under the West Side Highway.

"I don't know who did it," said Angelo, "except that I don't think it was Izzy Jaroslowitz. I mean everybody thinks it's funny that he got picked up. He doesn't do that sort of thing."

"Sure he does, meatball," said Parola. "The kid's got a sheet."

Angelo looked blank. "A sheet of what?"

"He's got a felony arrest on his yellow sheet in the Police Department, meatball. You must know what he did better than I do."

"Well, I don't know about that but they say he was in synagogue the whole day when he was supposed to be out buying the gun. I believe that."

"So who did it?"

"I don't know, and to tell the truth, I don't even think the JDL was involved."

"Don't give me that, Shel," Parola said. "Let me tell you some-

thing. If this is the wrong kid, I want him to get off. And the only way to do that is to find the right kid. You can find out who that is for me, Shelly."

"I told you, I don't know. Maybe give me a few days, and I'll look around to see what I find out."

"That's all I want," said Parola. "I don't expect you to stick your neck out."

The Sunday after Jaroslowitz's arrest Parola and Angelo met again, this time on President Street—the only place he seemed even slightly at ease. In neighborhoods that made him especially nervous he would lie on the rear floor as they drove, his long limbs bent at sharp angles like a broken praying mantis. Here on President Street he was willing to rise to a slump in the bucket seat. Now he told them he refused to cooperate unless he was granted immunity on the charges pending against him, and guaranteed that he would never be revealed as the informant in the Amtorg and Glen Cove cases.

"If you think the U.S. Attorney is going to give you the world on a silver platter," said Parola, "you're a fruitcake."

Parola reported to Seedman that it might be a long time before Angelo gave them anything on the sniper attack. If Angelo was not responding to threats that the U.S. Attorney might throw the book at him, what could get him to talk? Maybe it was time to lean on his special relationship with Parola and Gibney.

"Tell Angelo I'm not promoting you guys unless you break this sniper case," Seedman told Parola. The detective turned red as Seedman let that sink in. "I won't feel sorry for you. But he will. You'll see."

That afternoon at three o'clock, the special phone in the squad office rang.

"Hello, Charlie's Circus," barked Parola.

"Charlie?"

"Yeah, brother, what's doin'?"

"Can we make a meet tonight?"

"Ten o'clock, across from the diner."

That night Parola went through all the old reasons why Angelo should tell him who the sniper was. Then he trotted out this new one. "It's a personal favor to me and Joey," he said quietly. "It's better than even money that we won't get listed for promotion unless we pop this thing."

Angelo didn't say anything, but Parola felt a softening in the

tight atmosphere inside the Volvo. The two of them had hard, cold reasons for dealing with each other, but Parola had come to feel as intimate with Angelo as if they had shared a trench in wartime. Paranoid and difficult as Angelo was, Parola liked him not for the usual reasons. The bond that united them was much more substantial, and because of that, Parola could now see that Angelo was genuinely concerned to think he could affect their chances for promotion.

"I don't know what I can do," Angelo finally said. "I mean, I really don't know who did it. Even if I did, how could I fuck my friends? Everybody in the JDL is my friend, whether I know them or not." Depressed, Angelo shook his head. "Maybe I just ought to drive off the end of the pier," he said, motioning to the rickety bulkheads above the black current.

"Hey, wait a minute, meatball, how much did this car cost you back?"

"\$3600."

"No sense in letting it go to waste. Why not just let me run you over with the fuckin' car. Then I'll give it to my son."

Later in the week, Parola set up a motel-room meeting between Angelo and Assistant U.S. Attorney Pattison, who was handling the Amtorg and Glen Cove cases. Angelo agreed to the meet only after Parola had promised to come along. But Seedman didn't like the idea. Pattison worked out of the Eastern District office that had started off on the wrong foot with Angelo by hedging on returning his car. Then they had promised to send him out to California to start a new life once he testified against the others. He had been given a letter promising him immunity in return for full cooperation. But in spite of all the assurances, Seedman sensed that Angelo would trust only Gibney and Parola with any juicy new plums of information. Right now the Eastern District could only stir Angelo's paranoia.

Nevertheless, as Parola sat glumly by, the meeting took place. Pattison tried to induce Angelo not only to testify on all the JDL matters pending but to do so without immunity. He explained that a jury was always suspicious of a witness who testified against others to save his own skin. If he pleaded guilty in the Amtorg case—thus sparing himself from having to testify about all the damning details of how he made the bombs—and appeared without immunity as prosecution witness against the others, then the court would be far

more disposed to pass a lenient sentence. "Get it off your chest like a man," Pattison advised Angelo, who, Parola could not help thinking wryly, was so concave he almost didn't have a chest.

At his next meeting with Gibney and Parola, Angelo was morose. "I'm not going to testify at all," he said. "If I don't testify, those fuckers don't have enough to convict anyone, including me."

Parola looked at him incredulously. "Are you going bananas?" He ticked off how they had him identified as buying the equipment at Radio Shack, how they had followed his every movement. "Jesus, Shel," he lied, "we even got witnesses now that you built the fuckin' bombs."

"I don't care. Whatever they do, they'll do."

"Personally," said Parola, "I think you're stepping on your own prick."

The next day, under the West Side Highway, Parola came at Angelo from a different angle. "It suddenly dawned on me," he said. "I told Joey here, maybe this idiot Shelly went up on that roof *himself* to prove to his friends that he's not a rat."

Angelo's face showed nothing.

"Think about it, jerkoff," Parola went on. "All those four shots zinged right in there. Now, I personally don't believe the rest of those kids have what it takes to get off four good shots like that in a row. You're the only guy who knows anything about rifles, Shel. I mean, the gunsmith said that the kid who bought the rifle was asking stupid questions like he couldn't believe."

Parola leaned forward. "Did you do it, Shel? Tell me now and it'll die right here."

"No," said Angelo.

"Then who, Shel?"

Angelo wriggled. He looked out the window. "I think maybe a guy named Gary did it. That's all I heard."

"Gary Fishman?"

"I don't know. Maybe."

Seedman felt they would have to move as cautiously with this new name as they had moved quickly with Jaroslowitz. They could not afford to release one suspect and arrest another unless the new evidence was absolutely solid. Like Jaroslowitz, Gary Fishman had a "yellow sheet" of previous arrests. In the spring he had been arrested for sitting in with a JDL group at the office of the New York

Board of Rabbis. His signature on file in the Bureau of Criminal Intelligence (BCI) was not at all similar to the "Henry Faulkner" on the gun-purchase application. After his detectives observed Fishman for several days, Seedman was pretty sure he wasn't the sniper.

"Goddam it, Shelly, you embarrassed the hell out of us," said Parola at their next meeting on President Street. "You're gonna jerk us off one time too many, and then you know what happens? I get the fuckin' shovel again. But this time the dig will be for real."

"It was supposed to be a guy named Gary, that's all I know," said Angelo. "Maybe try a guy named Gary Shlian."

That night Parola looked up Gary Shlian in BCI. Seventeen-year-old Shlian lived in Kew Gardens Hills, Queens, far from the Brooklyn neighborhood where the cadre of biggest troublemakers lived. But Shlian had been arrested in the spring, along with Jaroslowitz and Fishman, at that New York Board of Rabbis sit-in. Parola felt his heart beating as he looked at the boy's signature. It almost certainly was from the same hand that had signed the gun application.

"For six weeks Jaroslowitz had been refusing to give us a handwriting sample," says Seedman. "Now, if he wanted to walk away from this charge, he was going to have to provide one—except that it was no longer our place to ask him. ATF had made the complaint and the Eastern District was prosecuting. It was up to them to force the issue. But they were in no hurry, since they were the ones who would look bad if a new culprit popped up—especially one supplied by us."

"On December seventh Jaroslowitz finally gave the U.S. Attorney a handwriting sample. It didn't appear to match the 'Henry Faulkner' on the application. Meanwhile, we had developed a latent palmprint from the lower corner of the application. It was so smudged it was useless for anything except a comparison of the same palm, but when we compared it to the palmprint we took from Gary Shlian's BCI file, they were identical. To top it off, Shlian was a big dark bearlike guy like Jaroslowitz. It was easy to see how the gunsmith had been confused. So now, even though the idea didn't thrill ATF, we were going to have to make an exchange."

"Rather than snap up Shlian right then, I wanted to spend a bit more time making the case against him as airtight as possible. But when we put a tail on him, we learned something we hadn't bar-

gained for. Shlian and Fishman were planning to fly to Israel on Saturday.

"It looked as though we were going to have to arrest them to keep them from leaving. But I was still hoping to postpone the arrest on the gun charge so we could see where Shlian might lead us if we let him run. Luckily, both he and Fishman were due to appear in State Supreme Court on the following Monday for sentencing for their part in the Board of Rabbis' sit-in. I asked the DA to see if they could be arrested for bail-jumping. Even if the airline schedules physically permitted, he felt no judge would believe that someone who left for Israel on Saturday had any intention of returning for a Monday morning court date.

"In order to make the bail-jumping case stick, we would have to make the arrest at the last second," says Seedman. "Otherwise we never would be able to prove they were really planning to use their tickets." On Saturday night at eight o'clock Shlian and Fishman were among the first passengers to board BOAC Flight sixty-two for Tel Aviv via London. But when they got to their seats, they found them already occupied—by George Howard and Joe Gregorowicz of the Explosive-Arson Squad.

"No trip?" said Shlian.

"Not today," answered Howard.

While they waited in the lounge for the boys' baggage, Shlian called Burt Zweibon, the JDL lawyer. When the detectives got back to the 6th Precinct station house, he was waiting for them.

"Are you telling me this arrest is just for bail-jumping on the Board of Rabbis' case?" demanded Zweibon.

"That's it, Burt," said Sergeant Howard.

"Then why are you guys from Explosive-Arson making the arrest?"

"We were ordered to, Burt. What can I say?"

"Did Seedman order this?" asked Zweibon. "Because if he did, you can't tell me there's not more to it than a bail-jumping charge."

"Is there more to it, Burt?" asked Howard.

The lawyer did not answer. But on Tuesday morning, February 1, U.S. Attorney Morse announced that the charges against Jaroslowitz would be dropped and almost identical charges made against Gary Shlian.

"With the handwriting and palmprints on the application

matching, Shlian had little choice but to plead guilty," says Seedman. "We were glad of that. It meant that Angelo's cover could still be preserved. I felt he'd help us out again. In fact, he really threw out the name of Gary Shlian only as a favor to Parola and Gibney, asking nothing in return. But some time earlier, in December, the government was ready to start the trial of the Amtorg Seven, and then Angelo had wanted something very badly—to hide his identity as our informant. Since the whole case revolved around him, that wouldn't be easy and I told Gibney and Parola that if he wanted us to try, he'd have to come up with more good information. I wanted to know in advance when the JDL was ready to try something new."

"I told you plenty already," Angelo angrily said to the detectives.

"We've got the DA's guarantee," said Parola, "that you get immunity for whatever you tell us about, even if you are personally involved."

Angelo looked at them hard. "You swear it?"

Gibney and Parola shook their heads. "That's the deal the Chief worked out with the DA."

"Because if I tell you what I'm thinking," said Angelo, "it's gonna knock you through the pavement."

The detectives believed him. They waited.

"Okay," said Angelo, "here goes." As he began to talk Parola took out a pad and pencil and started scrawling furiously, not daring to look up for fear of disturbing the flow. It was the first time he'd ever taken notes during a meeting, but Angelo was going too strong to notice.

The JDL had worked out three new moves against the Russians, Angelo explained. The first was to build a drone airplane, which could be radio-controlled from an automobile. The plane would have a six-foot wingspan and a hollow fuselage packed with six sticks of TNT, cut down to fit inside. The plan was to get the plane airborne at the East River and 67th Street, then drive cross-town to the Mission with the plane flying directly above. Whenever they had to stop at red lights, the radio controller in the car would direct the aircraft to circle around until the light turned green.

As they passed by the Mission the radio-controller would guide the aircraft down to the roof. When it landed, the weight of the

REPLY AFFIDAVIT OF RICHARD A. STEINBERG IN SUPPORT OF JA62
DEFENDANT'S MOTION TO DISMISS (Filed April 25, 1975)
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ,

Plaintiffs,

-against-

ALBERT A. SEEDMAN,

Defendant.

REPLY AFFIDAVIT

74 C 1504

Judge Bruchhausen

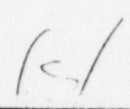
-----x
RICHARD A. STEINBERG, being duly sworn, deposes
and says:

1. I am an attorney in the office of the Corporation Counsel of the City of New York and submit this affidavit in reply to the opposing affidavits to filed on behalf of the plaintiffs.

2. The affidavit of Isaac Jaroslawicz states that he was an infant at the time of the alleged incident and did not reach his majority until August 30, 1974. Although the provisions of the New York Civil Practice Law and Rules relative to infancy effectively tolled the running of the statute of limitations as to Isaac Jaroslawicz's causes of action, the plaintiff Joseph Jaroslawicz was under no such disability and therefore cannot claim benefit of the statutory tolling. Thus, the causes of action on behalf of Joseph Jaroslawicz are time barred and must be dismissed.

3. A perusal of the affidavits of Stuart A. Schlesinger, Isaac Jaroslawicz, and Harvey J. Michelman readily reveals that the bulk of the non-hearsay, non-conclusory matter set forth therein go only to the question of

the nature of Isaac Jaroslawicz's presence in the 19th Precinit stationhouse. By use of the aforesaid affidavits the plaintiffs' seek to negative the defendant's contention that Isaac Jaroslawicz was not arrested by the New York City police but rather by federal authorities beyond the defendant's control. Assuming arguendo that there thus exists an issue of fact as to whether an arrest was effected by the defendant, it is a matter of little import since, as asserted in defendant's memorandum of law (Point II-C), probable cause for any such arrest was established as a matter of law by the subsequent indictment of Isaac Jaroslawicz. Therefore, the well-established defenses to 1983 actions such as this required that judgment be entered in favor of defendant on all causes of action.



RICHARD A. STEINBERG

Sworn to before me this

23rd day of April, 1975.

APRILADE WHITE
County Clerk of Deeds
City of New York No. 2-1177
Certificate filed in New York County
Commission Expires March 1, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK----- x
ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ,

Plaintiffs,

-against-

ALBERT A. SEEDMAN,

Defendant.
----- x

No. 74 C 1509

May 1, 1975

Appearances:

JULIEN & SCHLESINGER, ESQS
Attorneys for PlaintiffsW. BERNARD RICHLAND, ESQ
Corporation Counsel
Attorney for DefendantTHOMAS F. BURCHILL, ESQ
RICHARD A. STEINBERG, ESQ
Of counsel

BRUCHHAUSEN, D. J.

The defendant moves for an order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the complaint herein, or, in the alternative, for summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure.

A complaint was filed on October 23, 1974,

JAES

alleging violations of the Civil Rights Act. Thereafter, the present motion was brought, seeking the relief demanded. It is urged that the complaint, as filed, alleges an action founded upon false arrest and imprisonment. It alleges no facts but merely conclusory allegations and vague and indefinite allegations among other defects.

Thereafter, an amended complaint was filed on April 3, 1975 to cure the defects of the pleading. The defendant on the return day of the motion insisted that the pending motion be directed against the amended complaint.

The amended complaint has cured the pleading deficiencies of the original complaint to conform to the requirements of a civil right action.

However, the question now presented is whether any constitutional rights of the plaintiffs were abridged by the defendant.

The facts indicate that this event arose out of a shooting of four shots on October 20, 1971 by an unknown person through a window and into a room housing the Soviet Mission to the United Nations at 136 East 67th Street, New York City. A complaint was filed with the

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19th precinct as a result of this incident. The defendant, then Chief of Detectives stationed at the 19th precinct commenced an investigation of this event. The initial investigation lead the police to the roof of Hunter College where a search was conducted, and eventually a .243 caliber Remington rifle was discovered at the bottom of an airshaft. Also live and spent shells and a guitar case were discovered on a terrace of the building. A subsequent ballistic test proved that the bullets fired into the Soviet Mission were from this rifle. The serial number on the rifle was traced to the retailer, Charles Greenblatt, Inc., Hempstead, New York. The following afternoon, an interview at the retail store produced records indicating that this rifle was sold to one, Henry Faulkner, of 830 Arthur Avenue, Bronx, New York. This name and address both proved fictitious. At the time of this sale, Sol Jacobson, an officer, and Kenneth Aull, an employee of the retailer were present when the rifle was sold. The shooting incident indicated that the Jewish Defense League might be involved, and photographs of active members therein were shown to Jacobson and Aull. They pointed out Isaac Jaroslawicz, the plaintiff herein,

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and one Lawrence Fine. Thereafter upon the return to the precinct, the plaintiff was observed in a vehicle parked at 67th Street and Third Avenue. He was asked to voluntarily come to the precinct. The movant alleges that the plaintiff voluntarily accompanied the police into the precinct. The plaintiff alleges that he was forcibly dragged therein. The plaintiff was detained for approximately ten hours in the precinct during which time the investigation of the incident continued. The plaintiff alleges that he was arrested by the police at defendant's orders, he knowing full well that the plaintiff was not involved in the shooting incident. A line-up was conducted at the precinct, and Aull immediately identified the plaintiff as the person who purchased the rifle and also adjusted the telescopic sight for said weapon. During the line-up proceedings it is alleged that the plaintiff was represented by his attorney, Harvey J. Michelman. The affidavit of Michelman does not deny his presence at the precinct, and, in substance is non-informative. Thereafter, federal agents were called because the incident involved violation of the Federal Gun Control Act. The plaintiff was booked at the 19th

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precinct for convenience, and then removed by the federal agents to the Federal House of Detention. Subsequently, the plaintiff was indicted by a federal grand jury sitting in the Eastern District of New York. The indictment was filed November 9, 1971 charging the plaintiff with making false statements to a retailer of guns with respect to supplying truthful information for record keeping, and secondly, having in his possession a false selective service certificate. Thereafter, on February 1, 1972, the United States Attorney moved to dismiss the indictment on the ground of mistaken identity. In the affidavit of Edward R. Korman, the Assistant United States Attorney, in support of the motion to dismiss, alleged in paragraph 3, substantially, that the information linking the defendant Jaroslawicz to the crime charged included eyewitnesses identification by an employee of the gun shop at which the rifle was purchased, an address book belonging to the defendant with the name and address of the store where the gun was purchased, and evidence that his alleged alibi was false.

The amended complaint alleges the violation of the plaintiff's civil rights by the defendant in

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in causing the arrest or ordering the arrest of the plaintiff without probable cause, and knowing that he committed no crime concerning the purchase of the rifle. Also the defendant acted in bad faith and without reasonable belief that plaintiff committed any crime. The complaint goes on to allege various other facts concerning this incident, including being detained at the precinct approximately ten hours.

In the case at bar the police were investigating a serious crime, namely a shoot-out at the Soviet Mission. A complaint by the Mission was properly reported to the 19th precinct and immediately the defendant, Seedman, commenced his investigation. The rifle was found and traced to a gun shop on Long Island. The plaintiff was identified by eye witnesses who were shown photographs of the plaintiff. Subsequently, the plaintiff was observed in a parked car near or about the scene of the incident. He was taken to the precinct, placed in a line-up and identified by the employee as the person who purchased the rifle. The investigation proceeded and finally, he was booked at the 19th precinct as being "FOA" ("For Other Authorities"). He was subsequently

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indicted by a Federal Grand Jury sitting in the Eastern District of New York.

The facts gained from the affidavits clearly indicate that the police in this particular case had the absolute right to detain the plaintiff.

In *United States v. Middleton*, 344 F.2d 78, (Cir. 2), the Court held in part at page 83:

"Nor do we question the power of the police, under proper circumstances and while investigating a crime, 'to detain suspects for reasonable periods of time in order to question them, check their stories, and to run down leads which either confirm or contradict those stories.' *United States ex rel. Corbo v. LaVallee*, 270 F.2d 513, 518 (2 Cir. 1959), cert. denied sub nom. 361 U.S. 950 ***. This long-recognized prerogative is vital not only to crime prevention and detection, but also 'protects those who are readily able to exculpate themselves from being arrested and having formal charges made against them before their explanations are considered.' *United States v. Vita*, 294 F.2d at 530. See also *United States v. Bonanno*, 180 F. Supp. 71 (S.D.N.Y. 1960)."

In the case at bar, it is clear that the length of detention was not unreasonable, and that its purpose was investigation. The crime here was serious and there is no indication of any third degree methods used against

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the plaintiff to obtain a confession. It appears also that counsel was present during most of the time the plaintiff was detained.

The contention that the defendant actually arrested the plaintiff is tenuous. The only crime indicated at the time was purchasing a rifle under falsified identification, a federal but not a state crime. There was no evidence that the plaintiff actually discharged the rifle bullets into the Soviet Mission. The actual arrest was made by federal officers who subsequently appeared at the precinct.

It is now well settled as stated in *Pierson v. Ray*, 386 U.S. 547, at page 557:

"We hold that the defense of good faith and probable cause, *** for false arrest and imprisonment, is also available *** in an action under § 1983."

There is no doubt that the defendant acted in good faith and that his belief was reasonable. Again, the plaintiff was identified from a photograph and picked from a police line-up as the person who purchased the rifle used in the shootout at the Soviet Mission. Subsequent to this detention a search warrant was issued by

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a judge of the criminal court for the premises of the plaintiff, and finally he was indicted by a federal grand jury. There is more than enough indication that the defendant acted properly. See Hill v. Rowland, 474 F.2d 1374; Anderson v. De Cristofalo, 494 F.2d 321 and Pierson v. Ray, supra.

It follows, therefore, that the motion for summary judgment is granted.

It is so ordered.

Copies hereof will be forwarded to the attorneys for the parties.

Walter Bruchhausen
Senior U. S. D. J.

JUDGMENT (Filed May 2, 1975)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ MAY 3 1975 ★

TIME AM
P.M. ISAAC JAROSLAWICZ and JOSEPH
JAROSLAWICZ,

Plaintiffs,

-against-

ALBERT A. SEEDMAN,

Defendant.

JUDGMENT

74 C 1509

-----x

A memorandum and order of the Honorable Walter Bruchhausen, United States District Judge, having been filed on May 2, 1975, granting the defendant's motion for summary judgment, it is

ORDERED and ADJUDGED that the plaintiff take nothing of the defendant and that the complaint is dismissed.

Dated: Brooklyn, New York
May 2, 1975

Lewis Orgel
Clerk



UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

ISAAC JAROSLAWICZ, et ano.,

Plaintiffs-Appellants,

against

ALBERT A. SEEDMAN,

Defendant-Appellee.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

James A. Steele

being duly sworn,

deposes and says that deponent is not a party to the action, is over 18 years of age and resides at
310 W. 146th St., New York, N. Y.That on the 2nd day of September 1975 at Municipal Bldg., N. Y., N. Y.,deponent served the annexed *Appendix*

upon

W. Bernard Richland

the Corp Counsel NYC in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the
herein,Sworn to before me, this 2nd
day of September 1975*James A. Steele*
Print name beneath signature

JAMES A. STEELE

Robert T. Brin
ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31-0418950
Qualified in New York County
Commission Expires March 30, 1977